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**STATE OF NEW HAMPSHIRE
DEPARTMENT OF REVENUE ADMINISTRATION**

**FREQUENTLY ASKED QUESTIONS
(FAQ's)
BUSINESS ENTERPRISE TAX
(BET)
RSA 77-E REV 2400**



The New Hampshire Department of Revenue Administration offers this publication of answers to the most frequently asked questions. While we have attempted to identify the most common concerns, this publication does not address every situation, set of facts, or circumstances. Our goal is to develop a tax administration system that is fair and efficient, with taxpayers having the highest degree of confidence in the integrity of the Department. We welcome your questions, comments, and suggestions in writing to the address below or by e-mail to: advocate@totalnetnh.net.

Should you wish to request additional educational services or publications for use in state tax instruction, please feel free to send your request in writing to our NH DRA Customer Education Committee, c/o Robin Paveglio, PO Box 457, Concord, NH 03302-0457, (603) 271-8481.

Q: What is the Business Enterprise Tax (BET)?

A: A 0.75% tax is assessed on the enterprise value tax base, which is the sum of all compensation paid or accrued, interest paid or accrued, and dividend paid by the business enterprise, after special adjustments and apportionment.

Q: Who pays it?

A: Enterprises with more than \$150,000 of gross business receipts from all their activities or an enterprise value tax base more than \$75,000, are required to file a return.

Q: When is the return due?

A: Proprietorship, partnership and fiduciary returns are due on the 15th day of the 4th month following the end of the taxable period. Corporate and combined returns are due on the 15th day of the 3rd month following the end of the taxable period. Non-profit returns are due on the 15th day of the 5th month following the end of the taxable period.

Q: Do I have to make estimated payments?

A: Yes. Four estimate payments are required, paid at 25% each on the 15th day of the 4th, 6th, 9th and 12th month of the taxable period, for any tax liability that exceeds \$200.

Q: Who do I contact with questions?

A: Taxpayer Assistance personnel of the Document Processing Division, PO Box 637, Concord, NH 03302-0637, or call (603) 271-2186.

Q: Are guaranteed payments to partners included in BET base?

A: Yes.

Q: Who pays BET on intercompany dividends?

A: The affiliate, and the parent can deduct the dividend.

Q: Can unused BET credit be carried forward to future years and for how long?

A: Any unused BET credits may be carried forward for up to five (5) years.

Q: Is interest paid to depositors included in the BET base of a bank.

A: Yes.

Q: Is a non-profit organization required to file the BET return?

A: Yes, if it meets the filing requirements and is not an organization exempt from federal taxes as described in Internal Revenue Code section 501(c)(3).

Q: I am not required to file a BET return, why do you want the form?

A: If the BET return is not required, you must check NO in Step 2 on BT-Summary, otherwise the department assumes you are required to file the BET return. All taxpayers must file the BT-Summary to report the correct name and address information, summarize the taxes due and payment information and sign the return.

Q: Where can I obtain more information?

A: For more information you may visit our web site at www.state.nh.us/revenue and review RSA 77-E and Rev 2400.

Q: When should an "employee Leasing Company" include payments made to its "leased employees" for services provided to the Employee Leasing Company's customers (the "servicing company(s)" in their capacity as a "leased employee" in its Business Enterprise Tax Base?

A: If the leasing company qualifies as the "employer" (paying the W-2 wages of the leased employee) the compensation factor would apply to the leasing company. Therefore, the compensation paid or accrued by the leasing company would be included in the tax base of that enterprise if that enterprise issued the individuals federal W-2 statement. RSA's 77-E:1, V - 77-E:1,VII - 77-E:1,VIII and Rev. 2402.01

Q: How does New Hampshire treat the federal 30% Special Depreciation Business Expense?

A: At this time, the New Hampshire Legislature has not changed the current business tax law to conform with the federal tax law changes. The Internal Revenue Code (IRC) reference remains the Code in effect on December 31, 2000. Therefore, if these changes are used on your 2001 and 2002 federal filing, business taxpayers must recalculate their New Hampshire gross business profits. Since, under current New Hampshire law, the 30% special depreciation bonus expense and the additional IRC Section 179 expense is not allowable. Business taxpayers will have to adjust the taxable income reported on their federal return before reporting their gross business profits on their New Hampshire business tax return. Worksheets are available for this purpose.

Q: Can I amend for a NOL and get a refund?

A: No - NOL's must be carriedback only for purposes of determining the carryforward amount.

Q: How is the carryforward computed?

A: Per RSA 77-A:4, XIII, the carryforward amount is computed by first carrying the loss back three years and then offsetting the loss by any profits during those 3 tax periods. (However, no NOL deduction is allowed in those carryback years.) If there is more than one NH nexus member in the combined group, then the carryback loss must be allocated in accordance with the NH administrative rules, Rev. 303.03 (d) or Rev. 303.03 (e).

For example entities with tax year ending on or before 6/30/02 can take a five year carryforward and entities with tax year ending on or after 7/1/02 can take a 10 year carryforward.

If a loss remains after carryback, offset and allocation (if any), then the remaining loss must be apportioned using the apportionment percentage of the loss period.

Q: What are the maximum amounts of carryforward allowed?

A: See Chart below:	
Date	Max
On or before 6/30/2003	\$ 250,000
7/1/2003 - 6/30/2004	\$ 500,000
7/1/2004 - 6/30/2005	\$ 750,000
on or after - 7/1/2005	\$1,000,000

Q: How do I calculate the Net Operating Loss?

A: For purposes of calculating the amount of net operating loss deduction allowed under RSA 77-A:4, XIII, section 172 of the Internal Revenue Code in effect on December 31, 1996 shall be followed, except that:

(1) Any loss amount shall first be carriedback to those tax years required by the Internal Revenue code without application of the election in section 172(b)(3) and applied to any income in the carryback tax years, before any remaining loss is carriedforward as a net operating loss deduction.

(2) The carryback of losses as provided in (1) above shall result in neither an allowable net operating loss deduction in the carryback years nor a refund of previously paid taxes. Amended return filed for such purposes shall be prohibited.

(3) The business organization's failure to carryback net operating losses and apply them to the income of prior profitable years shall result in the loss being presumed to be fully absorbed in the carryback year(s).